



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by The Management Group ["TMG"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 17, 2015. The record was held open until November 23, 2015. At petitioner's request Hearings scheduled for November 10, 2015 and October 13, 2015 were rescheduled. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: CWA-168855.

The issue for determination is whether it was correct for TMG to deny additional funding of \$50 per month under the Include, Respect, I Self-Direct program ["IRIS"] for additional Over The Counter ["OTC"] items for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], Assistant Director
The Management Group
Suite 320
One South Pinckney Street
Madison, Wisconsin 53703

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 66 years old) is a resident of Milwaukee County, Wisconsin.
2. Petitioner has diagnoses of fibromyalgia, high IgE syndrome, chronic back and shoulder pain, and arthritis. Exhibit #1.
3. Petitioner's current Individual Support and Services Plan ["ISSP"] authorizes \$100 per month for OTC items; petitioner requested that TMG allow an additional \$50 per month IRIS funding for additional OTC items. Exhibit #1.
4. By a *Notice of Action -- IRIS Program* dated August 10, 2015, TMG denied petitioner's request to allow an additional \$50 per month IRIS funding for additional OTC items. Exhibit #1.

DISCUSSION

IRIS is a Home and Community Based Services program authorized under §1915 (c) of the Social Security Act and as approved by the Centers for Medicare and Medicaid Services ["CMS"]. *IRIS Policy Manual* (September 2015) ["IRIS Manual"] 1.0. The program provides funding for certain, specifically defined services to enrolled IRIS participants. In all cases, it is the expectation that natural and community supports or Medicaid card-coverable services will be used whenever available and that paid supports with funding from the IRIS program are the last means of obtaining those supports. IRIS Manual 5.6A.4. Services approved on IRIS participant plans must be directly connected to individualized participant Long Term Care outcomes. *Medicaid IRIS Services Definitions and Codes Manual*, page 1.

Wisconsin is required to assure financial accountability for funds expended for IRIS (and is subject to audit). 42 C.F.R. § 441.302(b) (2016). In this regard, services funded by IRIS must be cost-effective and necessary to avoid institutionalization. 42 C.F.R. § 440.180(b)(9) (2016). Permissible purchases with IRIS funds include items that increase a participant's independence or substitute for human assistance. 42 C.F.R. § 441.482(a) (2016); See also IRIS Manual 5.4. IRIS is funding of last resort. All other sources of payment (informal supports, primary insurance, MA, and other government programs) must be exhausted before IRIS funds may be used. IRIS Manual 5.6A.4. Goods or services covered by health insurance, Medicare, or Medicaid are not allowable IRIS expenses. IRIS Manual 5.4B.

In this case petitioner is requesting additional IRIS funding for additional OTC items such as multivitamins, calcium, vitamin D-3, antioxidants, Omega-3, 6, 9, lutein, bilberry, and flora-jen3. However, petitioner has not provided acceptable documentation to show that these items are necessary for her to avoid institutionalization, will increase her independence, or will substitute for human assistance. Therefore, TMG was correct to deny additional funding.

Petitioner did provide some documentation -- but the documentation is not acceptable. It is not acceptable either because it is too old (2011) or because it is not on the letterhead stationery of the medical professionals from whom it purports to be (which raises questions as to its authenticity). See, Exhibit #2.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct for TMG to deny additional funding of \$50 per month under IRIS for additional OTC items for petitioner.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

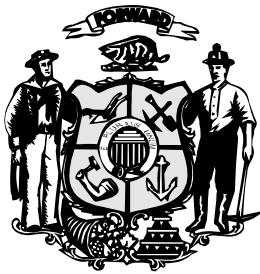
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of January, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 7, 2016.

Bureau of Long-Term Support